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SENATE BILL

No. 506

Introduced by Senator Poochigian

(~~Coauthor: Senator Dunn~~ Coauthors: *Senators Dunn and Romero*)

(Coauthors: Assembly Members Aghazarian, Bermudez, Garcia,
LaSuer, and Mountjoy)

February 18, 2005

An act to amend Section 2194 of, and to add Section 2166.7 to, the Elections Code, and to amend Section 6254.24 of, *and to add and repeal Section 12016.1 of*, the Government Code, *and to add and repeal Section 11105.06 of the Penal Code*, relating to public officials *and Homeland Security*.

LEGISLATIVE COUNSEL'S DIGEST

SB 506, as amended, Poochigian. Public officials *and Homeland Security*.

Existing law provides, until January 1, 2008, that participants in the “Address Confidentiality for Victims of Domestic Violence and Stalking” program and the “Address Confidentiality for Reproductive Health Care Service Providers, Employees, Volunteers, and Patients” program who complete an application containing specified information in person at a community-based victims’ assistance program may have certain personal information, including the program participant’s voter registration, remain confidential and not disclosed to the public.

This bill would require a local elections official to extend this confidentiality of voter registration information to specified public safety officials, upon application, as specified, for a period of no more than two years, if the local elections official is authorized to do so by his or her county board of supervisors. The application of a public safety official would be a public record.

This bill would also include the signature of a voter on a voter registration card as part of the voter registration information entitled to confidentiality.

Existing law prohibits a state or local agency from posting on the Internet the home address or telephone number of any elected or appointed official. It also prohibits, and makes punishable as a misdemeanor or felony, as specified, any person from knowingly posting this information or that of the official’s residing spouse or child on the Internet knowing that person is an elected or appointed official and intending to cause imminent bodily harm to that individual. For this purpose, an elected or appointed official is variously defined and includes specified public safety officials, as separately defined.

This bill would add to the definition of public safety officials state and federal judges and court commissioners. By expanding an existing crime, this bill would impose a state-mandated local program.

This bill would make technical and conforming changes to existing law.

Existing law requires the Governor to appoint a Director of Homeland Security to coordinate homeland security activities in the state, and to appoint a deputy director of homeland security to serve at the pleasure of the director. Existing law sets forth certain duties of an Office of Homeland Security in state government.

Existing law also authorizes the Attorney General to furnish specified summary criminal history information to certain peace officers of the state, subject to specified conditions.

This bill would, until January 1, 2007, specify that the Office of Homeland Security is a law enforcement organization as required for receipt by employees of the office of confidential intelligence information pursuant to these provisions.

This bill would, until January 1, 2007, provide that the Office of Homeland Security shall be considered a Class II criminal justice agency and would require the Attorney General to furnish state summary criminal history information to persons employed within the Office of Homeland Security whose duties and responsibilities require the authority to access criminal history and other intelligence information, and who have been cleared to do so by both the state Department of Justice and the United States Department of Homeland Security for these purposes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2166.7 is added to the Elections Code,
- 2 to read:
- 3 2166.7. (a) If authorized by his or her county board of
- 4 supervisors, a county elections official shall, upon application of
- 5 a public safety officer, make confidential that officer's residence
- 6 address, telephone number, and e-mail address appearing on the
- 7 affidavit of registration, in accordance with the terms and
- 8 conditions of this section.
- 9 (b) The application by the public safety officer shall contain a
- 10 statement, signed under penalty of perjury, that the person is a
- 11 public safety officer as defined in subdivision (f) and that a life
- 12 threatening circumstance exists to the officer or a member of the
- 13 officer's family. The application shall be a public record.

(c) The confidentiality granted pursuant to subdivision (a) shall terminate no more than two years after commencement, as determined by the county elections official. The officer may submit a new application for confidentiality pursuant to subdivision (a), and the new request may be granted for an additional period of not more than two years.

(d) Any person granted confidentiality under subdivision (a) shall:

(1) Be considered an absent voter for all subsequent elections or until the county elections official is notified otherwise by the Secretary of State or in writing by the voter. A voter requesting termination of absent voter status thereby consents to placement of his or her residence address, telephone number, and e-mail address in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly, or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word “confidential” or some similar designation in place of the residence address.

(e) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of disclosure of the information that is the subject of this section unless by a showing of gross negligence or willfulness.

(f) “A public safety officer” has the same meaning as defined in subdivision (a), (d), (e), (f), or (j) of Section 6254.24 of the Government Code.

SEC. 2. Section 2194 of the Elections Code is amended to read:

2194. (a) The voter registration card information identified in subdivision (a) of Section 6254.4 of the Government Code:

(1) Shall be confidential and shall not appear on any computer terminal, list, affidavit, duplicate affidavit, or other medium routinely available to the public at the county elections official’s office.

(2) Shall not be used for any personal, private, or commercial purpose, including, but not limited to:

(A) The harassment of any voter or voter’s household.

1 (B) The advertising, solicitation, sale, or marketing of
2 products or services to any voter or voter's household.

3 (C) Reproduction in print, broadcast visual or audio, or display
4 on the Internet or any computer terminal unless pursuant to
5 paragraph (3).

6 (3) Shall be provided with respect to any voter, subject to the
7 provisions of Sections 2166.5, 2166.7, and 2188, to any
8 candidate for federal, state, or local office, to any committee for
9 or against any initiative or referendum measure for which legal
10 publication is made, and to any person for election, scholarly,
11 journalistic, or political purposes, or for governmental purposes,
12 as determined by the Secretary of State.

13 (b) (1) Notwithstanding any other provision of law, the
14 California driver's license number, the California identification
15 card number, the social security number, and any other unique
16 identifier used by the State of California for purposes of voter
17 identification shown on a voter registration card of a registered
18 voter, or added to voter registration records to comply with the
19 requirements of the Help America Vote Act of 2002 (42 U.S.C.
20 Sec. 15301 et seq.), are confidential and shall not be disclosed to
21 any person.

22 (2) Notwithstanding any other provision of law, the signature
23 of the voter shown on the voter registration card is confidential
24 and shall not be disclosed to any person, except as provided in
25 subdivision (c).

26 (c) (1) The home address or signature of any voter shall be
27 released whenever the person's vote is challenged pursuant to
28 Sections 15105 to 15108, inclusive, or Article 3 (commencing
29 with Section 14240) of Chapter 3 of Division 14. The address or
30 signature shall be released only to the challenger, to elections
31 officials, and to other persons as necessary to make, defend
32 against, or adjudicate the challenge.

33 (2) An elections official shall permit a person to view the
34 signature of a voter for the purpose of determining whether the
35 signature matches a signature on an affidavit of registration or a
36 petition, but shall not permit a signature to be copied.

37 (d) A governmental entity, or officer or employee thereof,
38 shall not be held civilly liable as a result of disclosure of the
39 information referred to in this section, unless by a showing of
40 gross negligence or willfulness.

(e) For the purposes of this section, “voter’s household” is defined as the voter’s place of residence or mailing address or any persons who reside at the place of residence or use the mailing address as supplied on the affidavit of registration pursuant to paragraphs (3) and (4) of subdivision (a) of Section 2150.

SEC. 3. Section 6254.24 of the Government Code is amended to read:

6254.24. As used in this chapter, “public safety official” means any of the following:

(a) An active or retired peace officer as defined in Sections 830 and 830.1 of the Penal Code.

(b) An active or retired public officer or other person listed in Sections 1808.2 and 1808.6 of the Vehicle Code.

(c) An “elected or appointed official” as defined in subdivision (c) of Section 6254.21.

(d) Attorneys employed by the Department of Justice, the State Public Defender, a county office of the district attorney or public defender, the United States Attorney, or the Federal Public Defender.

(e) City attorneys and attorneys who represent cities in criminal matters.

(f) Specified employees of the Department of Corrections, the California Youth Authority, and the Prison Industry Authority who supervise inmates or are required to have a prisoner in their care or custody.

(g) Nonsworn employees who supervise inmates in a city police department, a county sheriff’s office, the Department of the California Highway Patrol, federal, state, and local detention facilities, and local juvenile halls, camps, ranches, and homes.

(h) Federal prosecutors and criminal investigators and National Park Service Rangers working in California.

(i) The surviving spouse or child of a peace officer defined in Section 830 of the Penal Code, if the peace officer died in the line of duty.

(j) State and federal judges and court commissioners.

SEC. 4. Section 12016.1 is added to the Government Code, to read:

12016.1. (a) The Office of Homeland Security shall be considered a law enforcement organization as required for

1 receipt of confidential intelligence information pursuant to
2 subdivision (f) of Section 6254 by persons employed within the
3 Office of Homeland Security whose duties and responsibilities
4 require the authority to access criminal history and other
5 intelligence information and who have been cleared to do so by
6 both the state Department of Justice and the United States
7 Department of Homeland Security.

8 (b) This section shall remain in effect only until January 1,
9 2007, and as of that date is repealed, unless a later enacted
10 statute, that is enacted before January 1, 2007, deletes or extends
11 that date.

12 SEC. 5. Section 11105.06 is added to the Penal Code, to
13 read:

14 11105.06. (a) In addition to furnishing state summary
15 criminal history information to the persons and entities set forth
16 in Section 11105 and subject to the requirements and conditions
17 set forth in that section, the Attorney General shall furnish state
18 summary criminal history information to persons employed
19 within the Office of Homeland Security whose duties and
20 responsibilities require the authority to access criminal history
21 and other intelligence information and who have been cleared to
22 do so by both the State Department of Justice and the United
23 States Department of Homeland Security. These persons shall be
24 furnished with that information on the same basis as persons
25 designated in paragraph (2) of subdivision (c) of Section 11105.

26 (b) The Office of Homeland Security shall be considered a
27 Class II criminal justice agency, as defined in the policies,
28 practices, and procedures required pursuant to Section 15160,
29 for access to the California Law Enforcement
30 Telecommunications System, provided that all terms and
31 conditions established by the Attorney General pursuant to
32 Section 15165 are met.

33 (c) This section shall remain in effect only until January 1,
34 2007, and as of that date is repealed, unless a later enacted
35 statute, that is enacted before January 1, 2007, deletes or extends
36 that date.

37 ~~SEC. 4.~~

38 SEC. 6. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the
3 penalty for a crime or infraction, within the meaning of Section
4 17556 of the Government Code, or changes the definition of a
5 crime within the meaning of Section 6 of Article XIII B of the
6 California Constitution.

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